

August 14, 2009

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition of Telcordia Technologies, Inc. To Reform or Strike Amendment 70, To Institute Competitive Bidding for Number Portability Administration, and To End the NAPM LLC's Interim Role in Number Portability Administration Contract Management; Renewed Request for Interim Standstill Order; **WCB Docket No. 07-149; WC Docket No. 09-109**; and Request that NANC Resolve Dispute Concerning Necessity of Adding Certain URI Codes for the Completion of Telephone Calls;
Request for a Standstill Order

Dear Ms. Dortch:

Telcordia Technologies, Inc. ("Telcordia") hereby responds to the ex parte filed by NeuStar, Inc. ("NeuStar"), on August 7, 2009, which essentially parrots a June 18, 2009 ex parte filed by the North American Portability Management LLC ("NAPM LLC"). NeuStar ignores the substance of Telcordia's standstill request and June 24 ex parte filing and misstates, as NAPM did, applicable FCC precedent for issuing emergency relief.

Like NAPM before it, NeuStar mischaracterizes the standard the FCC applies to enjoin parties from implementing provisions of an agreement that is subject to an ongoing FCC proceeding. NeuStar cites the *Ameritech/Qwest Teaming Order*. There, the Commission ordered a standstill preventing implementation of provisions of an agreement to prevent further harm to the public interest while the Commission considered the lawfulness of the arrangement.¹ While the Commission did address the four factors set forth in *Virginia Petroleum Jobbers*, it noted that it has "expressly declined to delineate . . . a single evidentiary standard applicable to all requests for interim injunctive

¹ See *AT&T Corp. v. Ameritech Corp.*, Memorandum Opinion and Order, 13 FCC Rcd 14508, 14508 ¶ 1.

relief or other emergency orders.”² Instead, the FCC balances all of the criteria, and may issue a standstill order even in the absence of any finding under one of the criteria.³

As Telcordia has demonstrated in this record, a standstill order is warranted under any and all of the *Virginia Petroleum Jobbers* criteria. And, NAPM and NeuStar have further confirmed in their ex parte letters that no countervailing harm will come to them or other parties that should prevent grant of this emergency relief. The only harm they claim is a delay in rolling out services if the FCC enjoins them from doing so. As the FCC found in the *Ameritech/Qwest Teaming Order*, a “mere delay” does not outweigh a potential harm to the public interest from “[a]llowing [an] agreement to go forward.”⁴

Last week, the Commission opened a docket to collect a comprehensive public record on Telcordia’s petition and request for relief,⁵ and can expect a report from the North American Number Council (“NANC”) once it completes its dispute resolution process. In the meantime, a standstill order with respect to implementation and commercialization of the disputed URI fields should be issued immediately to allow NANC and the Commission to resolve questions of the lawfulness of the inclusion of those fields in the NPAC *before* NeuStar and NAPM move ahead to implement and commercially exploit them.

Sincerely,

Handwritten signature of John T. Nakahata, with the initials "SKW" at the end.

John T. Nakahata
Counsel to Telcordia Technologies, Inc.

cc: Priya Aiyar
Jennifer Schneider
Nicholas Alexander
Julie Veach
Ann Stevens
Marilyn Jones
Melissa Kinkel
Thomas Koutsky

² 13 FCC Rcd 14515 ¶ 13.

³ See 13 FCC Rcd 14516 n.43 (“We find no due process requirement that any single factor, such as irreparable injury to the moving party, be demonstrated as a prerequisite to issuance of a standstill order.”).

⁴ 13 FCC Rcd 14521-22 ¶¶ 27, 28.

⁵ See *Wireline Competition Bureau Seeks Comment on Telcordia Petition To Reform or Strike Amendment 70, To Institute Competitive Bidding for Number Portability Administration, and To End the NAPM LLC’s Interim Role in Number Portability Administration Contract Management*, Public Notice, DA 09-1762, WC Docket No. 09-109 (rel. Aug. 6, 2009).